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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,806	07/02/2003	Allon G. Englman	47079-00208	5370

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JENKENS & GILCHRIST, P.C.  
225 WEST WASHINGTON  
SUITE 2600  
CHICAGO, IL 60606

EXAMINER
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HSU, RYAN

ART UNIT	PAPER NUMBER
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3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/10/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/612,806	ENGLMAN ET AL.	
	Examiner	Art Unit	
	Ryan Hsu	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2003.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____  |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :7/2/03; 5/27/04; 11/22/04; 12/06/04; 2/25/05;.

**DETAILED ACTION**

It is noted by the Examiner that claims 1-32 are directed towards a progressive game terminal. Whereas claims 33-34 are directed towards a gaming system that includes the incorporation of a signage display, it is noted by the Examiner should the applicant's representative further pursue the signage display unit of a gaming system as opposed to the operation of the progressive game terminals an election requirement may be made at a later time.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-12, and 14-25, and 27-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Olsen (US 6,146,273 A).**

Regarding claim 1, Olsen discloses a method of playing a progressive game, comprising: conducting a wagering game at a gaming terminal (*see Fig. 2 and the related description thereof*); achieving a progressive game entry award at the gaming terminal and activating a progressive game entry award at the gaming machine (*see col. 23: ln 1-50*). Olsen's progressive game displays a plurality of player-selectable game elements during the progressive and allows the player to select at least one of the pluralities of player-selectable game elements and awards a progressive game payoff based on the selections (*see Figs. 13-14 and the respective related descriptions thereof*).

Regarding claim 10, Olsen discloses a method of playing a progressive game at a gaming terminal comprising receiving from the gaming terminal at least one player input during the progressive game (*see abstract*). In response to the reception of the player input, Olsen's system achieves a first progressive game payoff or a second progressive game payoff and the second progressive game payoff being greater than the first progressive game payoff (*ie: bonus mode jackpot and secret bonus pool*) (*see col. 24: ln 46-col. 25: ln 46*). Additionally, Olsen's system awards the player a corresponding one of the first and second progressive game payoffs depending on the outcome of the player input selections (*see Figs. 13-14 and the respective related description thereof*).

Regarding claims 2, 20, Olsen discloses a method of playing a progressive game, comprising: receiving one of a plurality of player-selectable inputs which may consists of a stop-game input and a continue-game input (*see col. 24: ln 1-44*). Olsen's system in response to receiving a continue game input allows a player to continue the progressive game and in response to receiving a stop-game input, ending a progressive game and awarding a progressive game payoff (*see col. 23: ln 52-col. 25: ln 47*).

Regarding claim 25, Olsen discloses a method of a gaming terminal capable of playing a progressive game that is triggered during or after a wagering game being played at the gaming terminal comprising: an input device for receiving inputs from a player during the wagering game, and the inputs including a wager amount (*see Fig. 2 and the related description thereof*). Additionally, Olsen incorporates a display for displaying a randomly selected outcome of the wagering game in response to receiving a wager amount from the player and wherein the response to a progressive being triggered is displaying a plurality of player-selectable game elements (*see Fig. 11 and the related*

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*description thereof*). Furthermore, Olsen determines the game payoff of the progressive game based on a selection by a player of the player-selectable game elements (*see col. 25: ln 16-47*).

Regarding claim 33, Olsen discloses a gaming terminal for playing a progressive game, comprising: a connection port for coupling the gaming terminal to signage located adjacent to the gaming terminal for displaying at least one payoff amount for the progressive game (*see Fig. 7 and the related description thereof*); and a display for displaying a plurality of player-selectable game elements (*see Figs. 13-14 and the related descriptions thereof*); and an input device for receiving inputs corresponding to selected ones of the plurality of player selectable game elements, the selected ones of the plurality of player-selectable game elements determining a payoff amount for the progressive game (*see col. 24: ln 1-col. 25: ln 47*).

Regarding claims 3-5, 14-16, and 28-30, Olsen discloses a gaming system wherein the sequentially selected on of the continue-game elements increases the progressive game payoff (*see col. 21: ln 5-25*). Additionally, the progressive game includes first and second progressive game payoffs, the second progressive game payoff being higher than the first progressive game payoff and selecting a predetermined number of continue-game elements allows a player to achieve the second progressive game payoff (*see col. 23: ln 52-col. 25: ln 47*). Furthermore, Olsen's progressive game includes first and second progressive game payoffs, the second payoff being higher than the first payoff and the continue game elements include level-increasing elements, selecting a predetermined number of the level-increasing elements allows a player to achieve the second progressive game payoff (*see col. 23: ln 52-col. 25: ln 47*).

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Regarding claims 6-7, Olsen's game system allows entry into the progressive game by selecting from a plurality of progressive game qualifying items (*see col. 21: ln 1-50*). Additionally, the qualifying items are video envelopes that are selectable by a player at the gaming terminal and at least one of the plurality of progressive game qualifying items includes an invitation therein that is displayed in response to the player selecting at least one of the plurality of progressive game qualifying items (*see Figs. 13-14 and the related description thereof*).

Regarding claim 8, Olsen's gaming system includes first and second progressive game payoffs that are displayed on signage located above the gaming terminal (*see Fig. 7 and the related description thereof, display [920] of Fig. 9 and the related description thereof*).

Regarding claims 9, 18-19, 23-24, and 31, Olsen discloses a gaming system that uses a CPU to perform the achieving, activating, displaying steps, and random events of the game (*see computer [900] of Fig. 9 and the related description thereof*).

Additionally, the gaming system incorporates a CPU that may be located externally or internally. It is not pertinent to the invention whether or not a CPU is external or internal as long as it is connected to the proper communication devices. In Olsen's case the CPU is an internal device that is in communication with a signage or display device (*see Fig. 7 and the related description thereof*).

Regarding claims 11 and 27, Olsen's gaming system incorporates a plurality of sequential player inputs, which are player-selectable game elements that, if selected, are opened to reveal an outcome (*see Fig. 13-14 and the related description thereof*).

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Regarding claim 12, Olsen's gaming system discloses a gaming terminal that includes a display for displaying a plurality of player-selectable game elements wherein at least one player input corresponds to one of a plurality of player-selectable game elements (*see col. 23: ln 50-col. 25: ln 47*).

Regarding claim 17, Olsen's gaming machine discloses a method wherein the qualifying rounds yields a higher probability of entry into a progressive game in response to higher amounts being wagered in a basic game at the gaming terminal (*see col. 7: ln 25-col. 8: ln 11*).

Regarding claims 21-22, Olsen's gaming machine discloses a response to receiving the continue-game input, providing the player with an award (*see Fig. 14 and the related description thereof*). Additionally, Olsen's gaming system has multiple payoff amounts, and the awards include providing a higher payoff in response to the predetermined number of continue-game inputs being received (*see col. 24: ln 1-col. 25: ln 47*).

Regarding claims 32 and 34, Olsen discloses a gaming terminal wherein the signage is coupled to a plurality of gaming terminals competing in the progressive game (*see Fig. 7 and the related description thereof*).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



**Claims 13 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen as applied to claims above, and further in view of Baerlocher et al. (US 6,648,754 B2).**

Olsen teaches all of the elements of the progressive game as shown above and is incorporated herein. However, it is silent with the specific implementation of using a touchscreen device positioned over the plurality of player-selectable game elements. In an analogous progressive jackpot game, Baerlocher also incorporates player selectable elements in the progressive bonus jackpot game. In Baerlocher's bonus game he incorporates a touchscreen over the player selectable regions in order to allow the user a more intuitive user interface. Therefore would be motivated to incorporate this feature into a game system to make a display and control interface user-friendly. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the touchscreen over the display device of Olsen in order to make the display device and player input options more intuitive for the user.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Baerlocher et al. (US 5,788,573)** – Electronic Game Method and Apparatus with Hierarchy of Simulated Wheels.

**Bansemmer et al. (US 6,780,103 B2)** – Gaming Device Having Skill/Perceived Skill Bonus Round.

**Claypole et al. (GB 2,353,128 A)** – Amusement Machine with Trails.

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Any inquiry concerning this communication or earlier communication from the examiner should be direct to Ryan Hsu whose telephone number is (571)-272-7148. The examiner can normally be reached on M-F 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P Olszewski can be reached at (571)-272-6788.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, contact the Electronic Business Center (EBC) at 1-866-217-9197 (toll-free).



RH

January 6, 2007



**SCOTT JONES**  
**PRIMARY EXAMINER**